

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1311 OF 2015

ORDER:

This Criminal Revision Case is filed against order, dated 08.07.2015, passed CrI.M.P. No.772 of 2015 in C.C. No.157 of 2015, by the Special Magistrate Court No.1, Kukatpally at Miyapur.

Petitioner is the sole accused in CC No.157 of 2015. The brief facts of the case are that the petitioner took a hand loan of Rs.5,00,000/- from the de facto complainant for his business purpose, by executing a promissory note on 13.12.2013, promising to repay the same on demand with interest at 24% per annum. Thereafter, though the de facto complainant demanded for repayment of the said amount on several times, the petitioner postponed the same on one pretext or the other. Finally on 22.01.2015, the petitioner issued a cheque bearing No.746907, dated 22.01.2015 to the de facto complainant for the said amount, drawn on State Bank of India, KPHB Colony Branch, Kukatpally, Hyderabad, and promised to pay the interest within two months.

When the de facto complainant presented the said cheque in Syndicate Bank, Kukatpally branch, it was returned with an endorsement "Funds Insufficient". Thereafter, the de facto complainant issued a legal notice to the petitioner. After receipt of the notice also, the petitioner did not pay any amount to the de facto complainant. Hence, the de facto complainant filed a private complaint. The Court below took cognizance of the case against the petitioner for the offence under Section 138 of the Negotiable Instruments Act (for short 'NI Act'). When the case was posted for defence side evidence, the petitioner filed CrI.M.P. No.772 of 2015 praying the Court below to adjourn the case to any date, as his witnesses need minimum 90 working days time to get full data, which is necessary to prove the

innocence of the petitioner. The learned trial Judge dismissed the said application on the ground that as per the decision of the Apex Court in Writ Petition (Civil) of 2013 decided on 21.04.2014 between **Indian Bank Associate's and others vs. Union of India**, the cases filed under Section 138 of the NI Act should be disposed of within a period of three months. Challenging the said order, the present revision is filed.

Heard and perused the material available on record.

Learned counsel for the petitioner submitted that the Court below ought to have issued an opportunity to the petitioner to prove his innocence and without considering the contention of the petitioner, the Court below has dismissed his application.

A perusal of the record discloses that the petitioner has given sufficient time to examine his witnesses and he has not taken any steps to examine the witnesses within the prescribed time. Further, it is brought to the notice of this Court that the case was posted for arguments. Hence, this Court is of the view that the petitioner filed the impugned petition only to drag on the proceedings before the Court below and this Court is not inclined to interfere with the order passed by the Court below.

Accordingly, the Criminal Revision Case is dismissed.
Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

July 13, 2015.
KTL